



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Paul Butler  
Steven R. Ross  
Akin Gump Strauss Hauer & Feld  
1333 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-1564

FEB 27 2009

RE: MUR 6143  
Stephen D. Moses

Dear Messrs. Butler and Ross:

On December 2, 2008, the Federal Election Commission ("the Commission") found that there is reason to believe your client, Stephen D. Moses, violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). These findings were based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be

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demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1548.

On behalf of the Commission,

  
Steven T. Walther  
Chairman

Enclosures  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: Stephen D. Moses**

**MUR: 6143**

**I. INTRODUCTION**

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

**II. FACTUAL SUMMARY**

Galen Capital Group ("Galen"), a privately held merchant banking firm in McLean, Virginia, and William P. Danielczyk, Galen's chairman and CEO, co-hosted a fundraiser for Hillary Clinton's Senate campaign in September 2006 ("Senate Fundraiser") and another fundraiser for Clinton's Presidential campaign in March 2007 ("Presidential Fundraiser"). Stephen D. Moses is the Vice Chairman, Board of Directors at Galen. Galen, through Danielczyk, reimbursed employees, officers, and third parties including family members of Galen employees for contributions they made in connection with these fundraisers.

**A. 2006 Senate Fundraising Event**

The Senate Fundraiser was held on September 12, 2006, at the Ritz-Carlton in Tyson's Corner, Virginia. Galen reimbursed 11 people for contributions to the 2006 Senate Fundraiser totaling \$42,400. The reimbursed individuals included Moses. Moses made a \$4,200 contribution September 12, 2006, and received reimbursement in the form of a corporate check dated September 11, 2006, for \$4,212.97. Galen made reimbursements for the Senate Fundraiser by corporate checks coded as "expenses for the months of August and September."

**B. 2007 Presidential Fundraiser**

The 2007 Presidential Fundraiser was held on March 27, 2007, at Senator Hillary Clinton's house in Washington, D.C. Galen reimbursed 34 individuals for contributions to the 2007 Presidential Fundraiser totaling \$156,300. The reimbursed individuals included Moses. Moses made a \$4,600 contribution on March 31, 2007, and was reimbursed with a corporate check on March 22, 2007, for \$4,698.58. In connection with this fundraiser, Moses signed a donor authorization card stating that his contribution was not being reimbursed. Galen made the reimbursements for the Presidential Fundraiser by corporate checks coded as "marketing expenses."

**III. LEGAL ANALYSIS**

Corporations are prohibited from using corporate resources to engage in campaign fundraising activities. *See* 2 U.S.C. § 441b(a). A corporation can only act through its directors, officers, and agents, and may be held liable for the acts of an employee within the scope of the employment and that benefit the corporate employer. *See United States v. Wallach*, 935 F.2d 445, 462 (2d Cir. 1991); 1 William Meade Fletcher et al., *Fletcher Cyclopedia of the Law of Private Corporations* § 30 (Supp. 2004). *See, e.g., Liquid Air Corp. v. Rogers*, 834 F.2d 1297, 1306 (7th Cir. 1987). In addition, section 441b(a) prohibits any officer or director of any corporation from consenting to any expenditure or contribution by the corporation. The Federal Election Campaign Act, as amended, also provides that no person shall make a contribution in the name of another person or knowingly permit their name to be used to effect such a contribution. 2 U.S.C. § 441f.

1           Moses, a Galen officer and director, was reimbursed for his contributions by the  
2 corporation. Moreover, because he knew that his own contributions were being reimbursed with  
3 corporate funds, he knew about, and consented to, the use of corporate funds to make  
4 contributions. Therefore, there is reason to believe that Stephen D. Moses violated 2 U.S.C.  
5 §§ 441b(a) and 441f.

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